

CHARLOTTE PLANNING COMMISSION

FINDINGS OF FACT AND DECISION IN RE APPLICATION OF

James Callery and Holly Callery Subdivision Modification Application # PC-05-28

Background

The applicants own two adjoining properties, and propose to change the boundary between the parcels. The subject parcels were created by a subdivision (by the same applicants) approved on January 14, 1986 recorded in Map Slide 46 in the Charlotte Land Records. Sketch Plan Review for the proposal was held on June 2, 2005

Application

The application consists of:

1. An application form and appropriate fee.
2. A map entitled "Final Plat, Subdivision Modification Between Properties of James Callery and Holly Callery, 222 Deer Point Road, Charlotte Vermont" by Stuart J. Morrow date March 2005, no revisions.

Public Hearing

A public hearing was held for this application on July 7, 2005. James Callery, Holly Callery and Stuart Morrow were present at the hearing. Starr Brinkerhoff, an adjoining property owner, was also present and participated in the hearing.

Regulations in Effect

Town Plan as amended March 2002
Zoning Bylaws as amended March 2002
Subdivision Bylaws as amended March 1995

Findings

1. The reason for the application to create more flexibility on Lot B for siting a new dwelling.
2. The application proposes no other changes to the previously approved lots.
3. Chapter VIII Section 6 of the Charlotte Subdivision Bylaws states that "no...modifications or revisions shall be made on any subdivision plat after final approval, unless said plat is first properly submitted in accordance with these Bylaws to the Planning Commission as a modification to the subdivision and the modified plat is approved."
4. The Subdivision Bylaws do not provide standards for reviewing modified plats, however the standards for Boundary Adjustments (Chapter III Section 4) have been used in the

past as guidelines for reviewing Subdivision Modifications.

- 5. The application will not create any new lots.
- 6. The application will not impact access to any parcel.
- 7. The application will not adversely impact any significant natural resources
- 8. The application will not create a non-conforming or non-complying lot.

Decision

Based on these Findings, the Planning Commission approves the Subdivision Modification with the following conditions:

- 1. A mylar of the survey will be submitted to the Planning Commission for review within 60 days, and recorded in the Charlotte Land Records within 90 days.
- 2. Prior to the submission of the mylar, the applicant will submit a letter from the surveyor indicating that the survey pins have been set in the field as indicated on the survey.
- 3. The property associated with this application will be conveyed (from Lot A to Lot B) within 365 days, and prior to the sale of either Lot A or Lot B.
- 4. Once the land that is the subject of this application has been conveyed, it will merge with the remainder of Lot B and cannot be conveyed separately unless allowed by an action of the Planning Commission.

Additional Conditions: All plats, plans, drawings, documents, evidence and testimony submitted with the application or at the hearing and used as the basis for the Decision to grant permit, as well as all conditions listed above shall be binding on the applicant, and his/her/its successors, heirs and assigns. Projects shall be completed in accordance with such approved plans and conditions. Any deviation from the approved plans shall constitute a violation of permit and be subject to enforcement action by the Town.

This decision may be appealed to the Vermont Environmental Court by the applicant or an interested person who participated in the proceeding. Such appeal must be taken within 30 days of the date of the 4th signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Members Present at the Public Hearings on July 7, 2005: Jeff McDonald, Linda Radimer, John Owen, Peter Joslin, Robin Pierce and Robert Mack.

Vote of Members after Deliberations:

The following is the vote for or against the applications, with conditions as stated in this Decision:

- 1. Signed:_____ For / Against Date Signed:_____
- 2. Signed:_____ For / Against Date Signed:_____
- 3. Signed:_____ For / Against Date Signed:_____
- 4. Signed:_____ For / Against Date Signed:_____

5. Signed: _____ For / Against Date Signed: _____

6. Signed: _____ For / Against Date Signed: _____

7. Signed: _____ For / Against Date Signed: _____